



# Government Legal Department

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Your ref: CFK1-001/MM/LF  
Our ref: Z1817018/KZB/B5

28 November 2018

Dear Sirs

**Davison J v Secretary of State for Housing, Communities and Local Government - Bradley open cast coalmine ("the Bradley site")**

In the course of preparing our detailed grounds and evidence, we have identified a flaw in the original decision-making process. In your letter to the Secretary of State dated 1 May 2018, you referred him to the decision of his predecessor dated 22 March 2018 to refuse planning permission in respect of the proposed surface coal mine at Highborn, Northumberland (Application Ref: 15/03410/CCMEIA). It has come to light that, inadvertently, neither your letter dated 1 May 2018 nor the point made in it was drawn to the Secretary of State's attention before he made his decision not to revoke planning permission in relation to the Bradley site, which was communicated to you in our client's letter dated 11 July 2018.

In light of this, we accept that the matter needs to be reconsidered by the Secretary of State on a proper basis.

Because the Secretary of State has a continuing power to revoke a planning permission under s.100 Town and Country Planning Act 1990 (i.e. he is not *functus officio*), we do not consider that there is any need for the existing decision to be quashed for that reconsideration to take place. For the avoidance of doubt, however, we can confirm that the reconsideration will take place without regard to the previous decision.

We recognise that the practical effect of reconsideration will be the same as if the existing decision had been quashed, and therefore we accept that in those circumstances the Claimant will in effect have obtained the remedy she sought. We therefore invite the Claimant to withdraw her claim on the basis that the Secretary of State will reconsider the matter as set out above and will pay her reasonable costs to date (subject to the Aarhus Convention costs cap limit).

Yours faithfully

Lee John-Charles - Head of Division  
Gary Howard - Deputy Director, Team Leader Litigation B5

